DEPARTMENT OF
DEFENSE, VETERANS AND EMERGENCY MANAGEMENT
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DVEM Policy and Procedure Statement 19-03

August 1, 2019

TO: All Defense, Veterans and Emergency Management Employees

FROM: Major General Douglas A. Farnham, Commissioner and Adjutant General

SUBJECT: Domestic Violence in the Work Place

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1. This policy supersedes DVEM 14-01, dated January 31, 2014, subject as above. It is effective immediately and remains in effect until renewed or rescinded.

1. PURPOSE

The Department of Defense, Veterans and Emergency Management (DVEM) is committed to promoting the health and safety of its employees. This commitment includes the prevention and reduction of the incidence and effects of domestic violence.

While DVEM recognizes that both men and women are victims of domestic violence, the overwhelming majority of victims of domestic violence are women. In fact, domestic violence is the leading cause of injury to women in the United States.

DVEM recognizes that domestic violence is a workplace issue. Domestic violence does not stay at home when victims and perpetrators go to work. Victims may be especially vulnerable while they are at work. Domestic violence can compromise the safety of employees and directly interfere with the mission of DVEM by decreasing morale and productivity, as well as by increasing absenteeism and health costs.

For these reasons, the Department has established this workplace domestic violence policy. The specific purposes of the policy are to:

- Create a supportive workplace environment in which employees feel comfortable discussing domestic violence issues and seeking assistance for domestic violence situations;

- Develop responsive policies and procedures to assist employees who are affected by domestic violence;

- Provide immediate assistance to victims;

- Provide assistance and/or disciplinary action to employees who are perpetrators of abuse;

- Offer training on recognizing and responding to domestic violence.

This policy recognizes that, in accordance with 26 M.R.S.A. § 850, an employer must grant reasonable and necessary leave from work, with or without pay, to an employee who is a victim to prepare for and attend court proceedings; receive medical treatment; attend to the medical treatment of a child, parent or spouse who is a victim; or obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking. The necessity of the leave must be based upon the employee or the employee's daughter, son, parent or spouse being a victim of violence, assault, sexual assault, stalking or any act that would support an order for protection from abuse.

The Department will not tolerate domestic violence in the workplace, and will take action to prevent and correct the misuse of the State's resources in connection with domestic violence. Misuse of the State's resources in connection with domestic violence will result in discipline up to and including discharge.

2. DEFINITIONS

a. Abuser: An individual who engages in or commits domestic violence.

b. Department: Department of Defense, Veterans, and Emergency Management.

c. Domestic Violence: A pattern of coercive behavior that is used by a person against family or household members to gain power and control over the other party in a relationship. This behavior may include any of the following: physical violence, sexual abuse, emotional and psychological intimidation, verbal abuse and threats, stalking, isolation from friends and family, economic control, destruction of personal property and animal cruelty. Domestic violence occurs between people of all racial, economic, educational, and religious backgrounds. It occurs in heterosexual and same-sex relationships, between married and unmarried partners, between current and former partners and between other family and household members.

d. In The Work Place: When a Department of Defense, Veterans and Emergency Management employee, whether the employee is the victim or the abuser, is on duty, is in state-owned or leased work space or is using the facilities, resources, or services of the State or Federal government, or is wearing a uniform or official insignia identifying the office or position of the employee or is using a vehicle owned or leased by the State or Federal government or their agencies, or is traveling on behalf of the State or Federal government, the employee is considered "in the work place."

e. Sexual Assault: An act of sexual violence whereby a party forces, coerces, or manipulates another to participate in unwanted sexual activity. This behavior may include stranger rape, date and acquaintance rape, marital or partner rape, incest, child sexual abuse, sexual contact, sexual harassment, ritual abuse, exposure and voyeurism.

f. Stalking: Repeated unwanted contact between two people that directly or indirectly communicates a threat or places the victim in fear. Stalking may occur between intimate partners, acquaintances, or strangers. Stalking behaviors include but are not limited to: following a person; appearing at a person's home or place of business; making harassing phone calls; sending letters or e-mails; leaving written messages or objects; or vandalizing a person's property. In Maine, stalking is a crime and is defined more specifically in the criminal statutes in 17-A M.R.S.A. §210-A.

g. Work Place Safety Plan: A strategy developed in collaboration with a victim to implement work place safety options, including, but not limited to: setting up procedures for alerting security or police; temporary relocation of the victim to a secure area; voluntary temporary transfer or permanent relocation to a new work site; reassignment of parking space; escort for entry to and exit from the work site; responding to telephone, fax, e-mail or mail harassment; and, keeping a photograph of the abuser or a copy of an existing court order in a confidential on-site location and providing copies to designated personnel.

h. Victim: An individual subjected to domestic violence, sexual assault or stalking.

i. Employee: Includes state employees of the State of Maine, Uniformed, and Non-Uniformed Federal Technicians, military members performing military duty in Title 32 status or on State Active Duty Service under Title 37-B MRSA.

3. STATEMENT OF CONFIDENTIALITY

The Department recognizes and respects an employee's need for autonomy and confidentiality. To the extent permitted by law, and unless the substance of the employee's disclosure demands otherwise, the Department will normally maintain the confidentiality of an employee's disclosure. Disclosure may be addressed to any supervisor or appropriate human

resources staff. If an employee's disclosure indicates that there exists reasonable cause to suspect abuse, neglect, or exploitation of children or incapacitated or dependent adults reporting will be made to the Department of Health and Human Services and the Local District Attorney's Office. Further disclosure may be necessary if the abuser presents a threat to the safety of any person in the work place. Whenever possible, the victim will be given notice of necessary disclosures.

4. PROCEDURE – INCREASED EMPLOYEE AWARENESS

a. The Department will increase employee awareness of domestic and sexual violence and inform employees of available community resources. The methods used may include, but are not limited to, the following:

(1) Posting information on the impact of domestic and sexual violence and available community resources at department work sites. This information may include available sources of assistance such as availability of the State or Federal Employee Assistance Program, domestic violence projects, sexual assault support centers, and human resources personnel who are trained and available to serve as confidential sources of information, support, or referral.

(2) Including information on this policy and domestic and sexual violence awareness and services as part of the new department employee orientation and in the new employee orientation packet.

(3) Conducting domestic and sexual violence awareness activities in staff meetings, programs such as "brown bag lunches" and health and wellness programs.

(4) Distribution of the policy to all current employees.

(5) Department employees with supervisory responsibilities and any other designated individuals who will respond to victims and abusers will receive training on domestic violence in the workplace.

5. PROCEDURE – EMPLOYEES AFFECTED BY DOMESTIC AND SEXUAL ABUSE

a. The Department seeks to offer support and referrals for assistance to those employees who disclose concerns or request assistance.

b. Each employee is encouraged to discuss any concerns about being safe at work with any supervisor, manager, appropriate human resources personnel, or Bureau Director. An employee who experiences or witnesses domestic violence or immediate threats of domestic violence in the work place, regardless of whether the employee is a victim or not, should report the incident to a

supervisor, manager, appropriate human resources personnel or the Bureau Director immediately. In all circumstances, to ensure the safety and protection of all employees, any employee who has information that there is an immediate threat of violence to any person in the work place should, as soon as practicable, report the threat to a supervisor, manager, appropriate human resources personnel or Bureau Director.

c. The Department is committed to the effective enforcement of protection orders. In this regard, an employee who is a named plaintiff is encouraged to provide a copy of a protection order to the employee's supervisor or manager, particularly when the work place is listed on the order, so that every attempt can be made to take steps to enforce the order and protect that employee and others. The employee is encouraged to keep a current copy of the protection order immediately available in the work place.

d. Nothing in this policy prevents the reporting of any criminal conduct or reasonable suspicion of criminal conduct to the Department of Health and Human Services, law enforcement officials or a District Attorney's office.

6. PROCEDURE – RESPONSE AND ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE

a. If a victim discloses domestic abuse to a co-worker, that co-worker should avoid victim blaming and send the following messages: you are not alone, you are not to blame, there is help available, and I am concerned about your safety. The co-worker may wish to refer the victim to:

(1) Available resources including the domestic violence and sexual assault agencies, and the Employee Assistance Programs.

(2) Other individuals within the Department who may be able to provide assistance to the victim such as human resources personnel, and a supervisor or Bureau Director.

(3) Sections of this policy that support safety planning and assistance to victims.

b. Supervisors are responsible for communicating that domestic violence is behavior that will not be tolerated in the work place and that the Department will actively provide information and support to employees who are victims of such abuse.

c. A supervisor, manager, or appropriate human resources personnel who becomes aware that an employee is a victim of domestic violence shall:

(1) Offer the victim information about appropriate organizations for support, which include the domestic violence resources listed in Appendix A and that assistance is also available through the Employee Assistance Programs. Information and support services can be assessed 24 hours a day by calling 1-800-451-1834 (State) or 1-800-869-0276 (Federal).

(2) Offer leave to be used for the purposes of accessing domestic violence services, counseling, obtaining medical treatment, attending legal proceedings or carrying out other necessary activities to remedy a crisis caused by domestic violence, sexual assault or stalking, in accordance with the principles of 26 M.R.S.A. §850, *Employment Leave for Victims of Violence.*

(3) Leave benefits may include, as applicable for state employees:

(a) Sick, convalescent or vacation leave;

(b) Family and Medical Leave Act;

(c) Unpaid leave; or

(d) Catastrophic Leave Bank.

Leave benefits may include, as applicable for federal employees:

(a) Sick Leave

(b) Annual Leave

(c) Donated Leave

Benefits available for military members:

(a) Leave

(b) Pass

(4) Offer to assist the victim in developing a work place safety plan. If the victim and abuser are both employed by the Department, the work place safety plan should make arrangements to protect the victim from any threat posed by the abuser. The needs of the victim are of primary importance, and isolating the abuser from the victim is preferred if relocation for safety purposes is an issue.

d. Performance Issues: This policy recognizes that victims of domestic violence may have performance problems such as inability to concentrate, absenteeism, and productivity issues. When an employee confides to a supervisor or manager that job performance issues are caused by domestic violence, referrals, and assistance should be offered in accordance with this policy. When a victim has performance or conduct problems as a result of domestic violence, sexual assault, or stalking, the Department will offer support and an opportunity to correct the problems. Supervisors may develop a work plan with the employee to assist and support the employee in meeting performance expectations. Nothing in this policy alters the authority of the Department to establish performance expectations, counsel employees, impose discipline, reassign duties, place an employee on leave, or take other action as it deems appropriate.

7. PROCEDURE – RESPONSE AND ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT

a. If a victim discloses sexual violence to a co-worker, that co-worker should avoid victim blaming and send the following messages: you are not alone, you are not to blame, and there is help available. The co-worker may wish to refer the victim to:

(1) Available resources including the local sexual assault support center, and the State or Federal Employee Assistance Programs. Information and support services can be assessed 24 hours a day by calling 1-800-451-1834 (State) or 1-800-869-0276 (Federal).

(2) Other individuals within the Department who may be able to provide assistance to the victim such as human resources personnel and supervisor or Bureau Director.

b. Supervisors are responsible for communicating that sexual violence is behavior that will not be tolerated in the work place and that the Department will actively provide information and support to employees who are victims of such abuse.

c. A supervisor, manager, or appropriate human resources personnel who becomes aware that an employee is a victim of sexual assault shall:

(1) Offer the victim information about appropriate organizations for support, which include the sexual assault support centers listed in Appendix B and that assistance is also available through the State or Federal Employee Assistance Programs. Information and support services can be accessed 24 hours a day by calling 1-800-451-1834 (State) or 1-800-869-0276 (Federal).

(2) Offer leave to be used for the purposes of accessing services, counseling, obtaining medical treatment, attending legal proceedings or carrying out other necessary activities to remedy a crisis caused by domestic violence, sexual assault or stalking, in accordance with 26 M.R.S.A. §850, *Employment Leave for Victims of Violence*.

Leave benefits may include, as applicable:

(a) Sick, convalescent or vacation leave;

(b) Family and Medical Leave Act;

(c) Unpaid leave; or

(d) Catastrophic Leave Bank.

d. Performance Issues: This policy recognizes that victims of sexual assault may have performance problems such as inability to concentrate, absenteeism, and productivity issues. When an employee confides to a supervisor or manager that job performance issues are caused by sexual assault, referrals, and assistance should be offered in accordance with this policy. When a victim has performance or conduct problems as a result of domestic violence, sexual assault, or stalking, the Department will offer support and an opportunity to correct the problems. Supervisors may develop a work plan with the employee to assist and support the employee in meeting performance expectations. Nothing in this policy alters the authority of the Department to establish performance expectations, counsel employees, impose discipline, reassign duties, place an employee on leave, or take other action as it deems appropriate.

8. PROCEDURE – REQUIREMENTS OF AND RESPONSE TO AN EMPLOYEE WHO IS AN ABUSER

a. An employee who is found using any state or federal resources such as work time, work place telephones, a firearm, facsimile machines, mail, electronic mail, a state vehicle, state credit card or other means to commit an act of domestic violence, sexual assault or stalking is subject to disciplinary action, up to and including termination/separation. Similarly, any employee who is arrested, convicted, or issued a court order as a result of domestic violence, sexual assault or stalking, when such action has a nexus/connection to their employment with the State or Federal government, will be is subject to disciplinary action up to and including termination/separation.

b. All military members and any employee who is in law enforcement must disclose to the employee's supervisor or manager, any criminal charge or civil protection order involving allegations of domestic violence, sexual assault or stalking.

c. Any non-law enforcement employee of the Department who is named as a defendant in a protection order must disclose to their supervisor or manager any temporary or permanent order for protection from abuse or harassment with conditions that include:

(1) Conditions prohibiting or limiting contact with other employees of the Department.

(2) Conditions that may interfere with the employee's ability to perform job duties, such as a prohibition against carrying a firearm, or a no-contact order involving any person with whom the employee may come in contact with while carrying out the duties of their employment.

(3) Failure to disclose the above information may result in disciplinary action, up to and including termination/separation.

d. An employee who is in law enforcement and carries a firearm as a condition of employment, and who is a named defendant in a temporary or permanent protection order, or who is otherwise prohibited by court order, bail conditions, criminal conviction, or probation conditions from carrying a firearm, will be subject to administrative action which may include disciplinary action, up to and including termination/separation. Absent a court order, only the Commissioner or designee will have the authority to require the surrendering of a state employee's firearm.

e. A state supervisor or manager who becomes aware of a protection order or other information regarding an employee who is an abuser shall keep that information confidential to the extent permitted by law and will only discuss the information with those persons who need to be informed. Supervisors and managers should discuss their concerns with appropriate human resources personnel to determine an appropriate response.

f. An employee who is an abuser is encouraged to voluntarily seek assistance from the State or Federal governments' confidential Employee Assistance Programs or from any of the certified batterer intervention programs listed in Appendix A.

g. Co-workers who are concerned that someone they work with may be an abuser shall not confront that co-worker directly, but instead should discuss the concern with a supervisor or appropriate human resources personnel, who will determine an appropriate response.

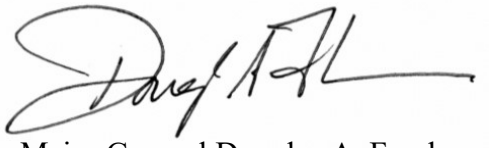
9. DOCUMENTATION

The Human Resources Office will develop necessary protocols related to maintaining records of domestic violence disclosures.

10. CONCLUSION

This Department is committed to providing a supportive and caring work place environment free of domestic and sexual violence. The Department will respond to and provide assistance to a victim. Victims will be treated with compassion and will not be judged.

11. The point of contact is the Staff Judge Advocate, at (207) 430-5166.



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Major General Douglas A. Farnham
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